THE HON'BLE MR JUSTICE V.V.S.RAO

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WRIT PETITION No.25491 of 2005

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Dated:30.11.2005

Between:

Meka Venkata Satya Harichandra Ram Prasad Chowdary,

S/o.Late Venkata Rao,

Occ:Government Service,

R/o.Flat No.304, Sai Towers-I, Rendam Gardens,

Visakhapatnam.

..... PETITIONER

AND

State of Andhra Pradesh represented by its

Principal Secretary to the Government,

Revenue Department, Secretariat, Hyderabad, and others.

.....RESPONDENTS

THE HON'BLE MR JUSTICE V.V.S.RAO

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WRIT PETITION No.25491 of 2005

ORDER:

The petitioner herein purchased an extent of 778 Sq.yards under registered sale deed, dated 13.08.1990 from Sri P.Ramabhadra Raju and K.Demullu. The land is comprised in Survey No.159/7 situated at Kommadi Village, Visakhapatnam Rural Mandal. The petitioner allegedly dug a bore well and intended to construct a house in the said land, after obtaining necessary permission from the legal authorities. The petitioner states that his vendors purchased the property admeasuring Acs.2.45 from Rachamalla Ramachandra Rao and other legal heirs of Smt.Rachamalla Chittamma under registered sale deed dated 28.09.1983. Before purchasing the property, the petitioner got verified the title of the vendors and also obtained the certificate from the Mandal Revenue Officer (MRO), Visakhapatnam, to the effect that the property is a zeroyiti ryotwari land and that it is not a Government land. Be that as it is, the MRO

issued a show cause notice dated 16.04.2005 in Form-I under Section 3 of the A.P. Assigned Lands (Prohibition of Transfers) Act, 1977 (for short 'the Act'), calling upon the petitioner to show cause within fifteen days as to why he should not be summarily evicted from the said land and as to why any crop or other construction erected should not be forfeited. The petitioner submitted detailed explanation on 07.06.2005. After considering the same, the MRO, the third respondent herein, issued proceedings dated 02.08.2005 resuming the land to the Government holding that the purchase made by the petitioner is contrary to Section 3 of the Act. In this writ petition, the proceeding of the MRO is assailed.

The learned Counsel for the petitioner, Sri Abhind Kumar Shavili, submits that the land in question is not an assigned land, that in 1988 the MRO certified that the land is neither assigned nor covered by D-Form patta, and therefore, the provisions of the Act have no application. **Per contra**, the learned Assistant Government Pleader for Revenue (Assignments) submits that in view of the availability of the effective alternative remedy under Section 4A of the Act, the writ petition is not maintainable, and the question whether the land in Survey No.159/7 is assigned land or private patta land, being a question of fact, cannot be decided in this writ petition.

A reading of the impugned order discloses that the land in Survey No.159/7 is assigned land, which is purchased by the petitioner allegedly in contravention of the provisions under Section 3 of the Act. Therefore, as required under the A.P.Assigned Lands (Prohibition of Transfers) Rules, 1977, the MRO issued a notice and passed orders, after obtaining and duly considering the explanation of the petitioner. The question whether the disputed property is assigned land or not, as rightly pointed out by the learned Assistant Government Pleader, is a disputed question of fact and this matter can as well be agitated before the competent appellate authority under Section 4A of the Act. For this reason, without expressing any opinion, this Writ Petition is being disposed of as under.

Liberty is given to the petitioner to prefer an appeal before the jurisdictional Revenue Divisional Officer under Section 4A of the Act within a period of ten days from today. It shall be open to the petitioner to obtain appropriate orders from the appellate authority. As and when such appeal is filed by the petitioner, the appellate authority shall consider the appeal and also the interlocutory application, and pass orders expeditiously.

The Writ Petition, with the above observations, is accordingly disposed of. No costs.

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(V.V.S.RAO, J)

30.11.2005

vs